



February 22, 2005

HOUSE BILL No. 1245

DIGEST OF HB 1245 (Updated February 21, 2005 1:24 pm - DI 92)

Citations Affected: IC 6-3.1; noncode.

Synopsis: Coal gasification. Provides an income tax credit for placing into service an integrated coal gasification power plant.

Effective: January 1, 2006.

**Woodruff, Stilwell, Borders,
Klinker**

January 6, 2005, read first time and referred to Committee on Ways and Means.
February 21, 2005, amended, reported — Do Pass.

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HB 1245—LS 6980/DI 51+



February 22, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1245

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2006]:

4 **Chapter 29. Coal Gasification Technology Investment Tax**
5 **Credit**

6 **Sec. 1. As used in this chapter, "commission" refers to the**
7 **Indiana utility regulatory commission.**

8 **Sec. 2. As used in this chapter, "corporation" refers to the**
9 **Indiana economic development corporation established by**
10 **IC 5-28-3-1.**

11 **Sec. 3. As used in this chapter, "department" refers to the**
12 **department of state revenue.**

13 **Sec. 4. As used in this chapter, "Indiana coal" has the meaning**
14 **set forth in IC 4-4-30-4.**

15 **Sec. 5. As used in this chapter, "integrated coal gasification**
16 **powerplant" means a facility that satisfies all of the following**
17 **requirements:**

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(1) The facility is a newly constructed energy generating plant.

(2) The facility converts coal into synthesis gas that can be used as a fuel to generate energy.

(3) The facility uses the synthesis gas as a fuel to generate electric energy.

(4) The facility is dedicated primarily to serving Indiana retail electric utility consumers.

Sec. 6. As used in this chapter, "pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

Sec. 7. As used in this chapter, "qualified investment" means a taxpayer's expenditures for:

(1) all real and tangible personal property incorporated in and used as part of an integrated coal gasification powerplant; and

(2) transmission equipment and other real and personal property located at the site of an integrated coal gasification powerplant that is employed specifically to serve the integrated coal gasification powerplant.

Sec. 8. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-2.3 (the utility receipts tax);

(2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(3) IC 6-5.5 (the financial institutions tax); and

(4) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 9. As used in this chapter, "taxpayer" means a person, corporation, partnership, or other entity that has any state tax liability.

Sec. 10. A taxpayer that:

(1) is awarded a tax credit under this chapter by the corporation; and

(2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability for a

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1 taxable year in which the taxpayer places into service an integrated
2 coal gasification powerplant and for the taxable years provided in
3 section 12 of this chapter.

4 Sec. 11. Subject to section 12 of this chapter, the amount of the
5 credit to which a taxpayer is entitled is equal to the sum of the
6 following:

7 (1) Ten percent (10%) of the taxpayer's qualified investment
8 for the first five hundred million dollars (\$500,000,000)
9 invested.

10 (2) Five percent (5%) of the amount of the taxpayer's
11 qualified investment that exceeds five hundred million dollars
12 (\$500,000,000).

13 Sec. 12. (a) A credit awarded under section 11 of this chapter
14 must be taken in ten (10) annual installments, beginning with the
15 year in which the taxpayer places into service an integrated coal
16 gasification powerplant.

17 (b) The amount of an annual installment of the credit awarded
18 under section 11 of this chapter is equal to the lesser of:

19 (1) the credit amount determined under section 11 of this
20 chapter, divided by ten (10); or

21 (2) the greater of:

22 (A) the taxpayer's total state tax liability for the taxable
23 year, multiplied by twenty-five percent (25%); or

24 (B) the taxpayer's liability for the utility receipts tax
25 imposed under IC 6-2.3 for the taxable year.

26 (c) If the credit allowed by this chapter is available to a member
27 of an affiliated group of corporations filing a consolidated return
28 under IC 6-2.3-6-5 or IC 6-3-4-14, the credit shall be applied
29 against the state tax liability of the affiliated group.

30 Sec. 13. A person that proposes to place a new integrated coal
31 gasification powerplant into service may apply to the corporation
32 before the taxpayer makes the qualified investment to enter into an
33 agreement for a tax credit under this chapter. The corporation
34 shall prescribe the form of the application.

35 Sec. 14. After receipt of an application, the corporation may
36 enter into an agreement with the applicant for a credit under this
37 chapter if the corporation determines that the taxpayer's proposed
38 investment satisfies the requirements of this chapter.

39 Sec. 15. (a) The corporation shall enter into an agreement with
40 an applicant that is awarded a credit under this chapter. The
41 agreement must include all the following:

42 (1) A detailed description of the project that is the subject of

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the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The maximum tax credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.

(5) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.

(6) A requirement that the taxpayer shall annually report to the corporation the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, and the average wage of all employees at the location where the qualified investment is made.

(7) A requirement that the corporation is authorized to verify with the appropriate state agencies the amounts reported under subdivision (6), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(8) A requirement that the taxpayer shall pay an average wage to its employees at the integrated coal gasification powerplant, other than highly compensated employees, in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the average county wage in the county in which the integrated coal gasification powerplant is located.

(9) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(10) A requirement that the taxpayer shall provide written notification to the corporation not later than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(11) A requirement that the taxpayer shall use Indiana coal at the taxpayer's integrated coal gasification powerplant.

(12) A requirement that the taxpayer obtain from the commission a determination under IC 8-1-8.5-2 that public

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1 convenience and necessity require, or will require, the
2 construction of the taxpayer's integrated coal gasification
3 powerplant.

4 (b) A taxpayer must comply with the terms of the agreement
5 described in subsection (a) to receive an annual installment of the
6 tax credit awarded under this chapter. The corporation shall
7 annually determine whether the taxpayer is in compliance with the
8 agreement. If the corporation determines that the taxpayer is in
9 compliance, the corporation shall issue a certificate of compliance
10 to the taxpayer.

11 Sec. 16. If a pass through entity does not have state tax liability
12 against which the tax credit may be applied, a shareholder,
13 partner, or member of the pass through entity is entitled to a tax
14 credit equal to:

15 (1) the tax credit determined for the pass through entity for
16 the taxable year; multiplied by

17 (2) the percentage of the pass through entity's distributive
18 income to which the shareholder, partner, or member is
19 entitled.

20 Sec. 17. To receive the credit awarded by this chapter, a
21 taxpayer must claim the credit on the taxpayer's annual state tax
22 return or returns in the manner prescribed by the department. The
23 taxpayer shall submit to the department a copy of the commission's
24 determination required under section 15 of this chapter, a copy of
25 the taxpayer's certificate of compliance issued under section 15 of
26 this chapter, and all information that the department determines
27 is necessary for the calculation of the credit provided by this
28 chapter.

29 SECTION 2. [EFFECTIVE JANUARY 1, 2006] IC 6-3.1-29, as
30 added by this act, applies to taxable years beginning after
31 December 31, 2005.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1245, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1245 as introduced.)

ESPICH, Chair

Committee Vote: yeas 23, nays 0.

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